

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

September 1, 2021

9:07 a.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Mike Shower, Vice Chair (via teleconference)
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Mike Cronk
Representative Ken McCarty

COMMITTEE CALENDAR

SENATE BILL NO. 53

"An Act relating to use of income of the Alaska permanent fund; relating to the amount of the permanent fund dividend; relating to the duties of the commissioner of revenue; relating to an advisory vote on the permanent fund; providing for an effective date by repealing the effective date of sec. 8, ch. 16, SLA 2018; and providing for an effective date."

- MOVED CSSB 53(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 53

SHORT TITLE: PERM FUND; ADVISORY VOTE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/25/21	(S)	READ THE FIRST TIME - REFERRALS
01/25/21	(S)	STA, JUD, FIN
02/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/04/21	(S)	Scheduled but Not Heard
02/09/21	(S)	STA AT 3:30 PM BUTROVICH 205

02/09/21	(S)	Heard & Held
02/09/21	(S)	MINUTE(STA)
02/11/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/11/21	(S)	Scheduled but Not Heard
02/23/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/23/21	(S)	Moved SB 53 Out of Committee
02/23/21	(S)	MINUTE(STA)
02/24/21	(S)	STA RPT 3NR 1AM
02/24/21	(S)	NR: SHOWER, HOLLAND, COSTELLO
02/24/21	(S)	AM: KAWASAKI
04/21/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/21/21	(S)	Heard & Held
04/21/21	(S)	MINUTE(JUD)
04/26/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/26/21	(S)	Heard & Held
04/26/21	(S)	MINUTE(JUD)
04/30/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/30/21	(S)	<Bill Hearing Canceled>
08/27/21	(S)	JUD AT 1:30 PM BUTROVICH 205
08/27/21	(S)	Heard & Held
08/27/21	(S)	MINUTE(JUD)
08/30/21	(S)	JUD AT 10:00 AM BUTROVICH 205
08/30/21	(S)	Heard & Held
08/30/21	(S)	MINUTE(JUD)
08/31/21	(S)	JUD AT 1:30 PM BUTROVICH 205
08/31/21	(S)	-- MEETING CANCELED --
09/01/21	(S)	JUD AT 9:00 AM BUTROVICH 205

WITNESS REGISTER

ED KING, Staff
 Senator Roger Holland
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Explained amendments to SB 53 on behalf of the committee.

ACTION NARRATIVE

9:07:55 AM

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 9:07 a.m. Present at the call to order were Senators Myers, Hughes, Kiehl, and Chair Holland. Senator Shower (via teleconference) joined shortly thereafter.

SB 53-PERM FUND; ADVISORY VOTE

9:08:33 AM

CHAIR HOLLAND announced the consideration of SB 53 SENATE BILL NO. 53 "An Act relating to use of income of the Alaska permanent fund; relating to the amount of the permanent fund dividend; relating to the duties of the commissioner of revenue; relating to an advisory vote on the permanent fund; providing for an effective date by repealing the effective date of sec. 8, ch. 16, SLA 2018; and providing for an effective date."

[SB 53 was previously heard on 4/21/21, 4/26/21, 8/27/21 and 8/30/21. Public testimony was open and closed on 4/26/21.]

CHAIR HOLLAND stated his intention to finish hearing amendments and report the bill from committee.

CHAIR HOLLAND recognized that Senator Shower had joined the meeting telephonically.

9:09:10 AM

SENATOR KIEHL moved Amendment 7, work order 32-GS1693\A.16, as a conceptual amendment. He explained that this is a conceptual amendment because the first four and three-quarter pages were addressed in an earlier amendment. It read:

32-GS1693\A.16
Nauman
8/30/21

AMENDMENT 7

OFFERED IN THE SENATE

BY SENATOR KIEHL

Page 1, lines 3 - 4:

Delete "relating to an advisory vote on the permanent fund; providing for an effective date by repealing the effective date of sec. 8, ch. 16, SLA 2018;"

Page 2, line 6:

Delete "**five** [5.25]"
Insert "five"

Page 2, following line 14:

Insert a new bill section to read:

"* **Sec. 2.** AS 37.13.140, as amended by sec. 1 of this Act, is amended to read:

Sec. 37.13.140. Income. (a) Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. Net income of the fund shall be computed annually as of the last day of the fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. Income available for distribution equals 21 percent of the net income of the fund for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the fund for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145.

(b) The corporation shall determine the amount available for appropriation each year. The amount available for appropriation is five percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this subsection, "average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District). [THE AMOUNT AVAILABLE FOR APPROPRIATION MAY NOT EXCEED THE BALANCE IN THE EARNINGS RESERVE ACCOUNT DESCRIBED IN AS 37.13.145.]"

Renumber the following bill sections accordingly.

Page 2, following line 23:

Insert a new bill section to read:

"* **Sec. 4.** AS 37.13.145(b), as amended by sec. 3 of this Act, is amended to read:

(b) At the end of each [EACH] fiscal year, the corporation shall transfer [LEGISLATURE MAY APPROPRIATE] from the earnings reserve account to the [(1)] dividend fund established under AS 43.23.045, 50 percent of the income [AMOUNT] available for distribution [APPROPRIATION] under AS 37.13.140 [AS 37.13.140(b)]; AND

(2) GENERAL FUND, 50 PERCENT OF THE AMOUNT AVAILABLE FOR APPROPRIATION UNDER AS 37.13.140(b)]."

Renumber the following bill sections accordingly.

Page 3, following line 10:

Insert a new bill section to read:

"* **Sec. 6.** AS 37.13.145(c), as amended by sec. 5 of this Act, is amended to read:

(c) After the transfer [APPROPRIATIONS] under (b) and an appropriation under (g) of this section, the corporation shall transfer [LEGISLATURE MAY APPROPRIATE] from the earnings reserve account to the principal of the fund an amount sufficient to offset the effect of inflation on the principal of the fund during that fiscal year. However, none of the amount transferred shall be applied to increase the value of that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District) on July 1, 2004. The corporation shall calculate the amount to transfer to the principal under this subsection by

(1) computing the average of the monthly United States Consumer Price Index for all urban consumers for each of the two previous calendar years;

(2) computing the percentage change between the first and second calendar year average; and

(3) applying that rate to the value of the principal of the fund on the last day of the fiscal year just ended, including that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District)."

Renumber the following bill sections accordingly.

Page 3, following line 21:

Insert new bill sections to read:

"* **Sec. 8.** AS 37.13.145(d), as amended by sec. 7 of this Act, is amended to read:

(d) Notwithstanding (b) of this section, income earned on money awarded in or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned on the money, or on the earnings of the money shall be treated in the same manner as other income of the Alaska permanent fund,

except that it is not available for distribution [APPROPRIATIONS] to the dividend fund, for transfers [UNDER AS 37.13.140(b) OR] to the principal under (c) of this section, or for an appropriation under (g) of this section, and shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

* **Sec. 9.** AS 37.13.145 is amended by adding new subsections to read:

(g) The legislature may not appropriate from the earnings reserve account to the general fund a total amount that exceeds the amount available for appropriation under AS 37.13.140(b) in a fiscal year.

(h) The combined total of the transfer under (b) of this section and an appropriation under (g) of this section may not exceed the amount available for appropriation under AS 37.13.140(b)."

Renumber the following bill sections accordingly.

Page 3, following line 25:

Insert a new bill section to read:

"* **Sec. 11.** AS 37.13.300(c), as amended by sec. 10 of this Act, is amended to read:

(c) Net income from the mental health trust fund may not be included in the computation of net income or market value [THE AMOUNT] available for distribution or appropriation under AS 37.13.140 [AS 37.13.140(b)]."

Renumber the following bill sections accordingly.

Page 4, following line 1:

Insert a new bill section to read:

"* **Sec. 13.** AS 37.14.031(c), as amended by sec. 12 of this Act, is amended to read:

(c) The net income of the fund shall be determined by the Alaska Permanent Fund Corporation in the same manner the corporation determines the net income of the Alaska permanent fund under AS 37.13.140 [AND SHALL BE COMPUTED ANNUALLY AS OF THE LAST DAY OF THE FISCAL YEAR IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, EXCLUDING ANY UNREALIZED GAINS OR LOSSES]."

Renumber the following bill sections accordingly.

Page 4, following line 27:

Insert a new bill section to read:

"* Sec. 15. AS 43.23.025(a), as amended by sec. 14 of this Act, is amended to read:

(a) By October 1 of each year, the commissioner shall determine the value of each permanent fund dividend for that year by

(1) determining the total amount available for dividend payments, which equals

(A) the amount of income of the Alaska permanent fund transferred [APPROPRIATED] to the dividend fund under AS 37.13.145(b) during the current year;

(B) plus the unexpended and unobligated balances of prior fiscal year appropriations that lapse into the dividend fund under AS 43.23.045(d);

(C) less the amount necessary to pay prior year dividends from the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and 43.23.055(3) and (7);

(D) less the amount necessary to pay dividends from the dividend fund due to eligible applicants who, as determined by the department, filed for a previous year's dividend by the filing deadline but who were not included in a previous year's dividend computation;

(E) less appropriations from the dividend fund during the current year, including amounts to pay costs of administering the dividend program and the hold harmless provisions of AS 43.23.240;

(2) determining the number of individuals eligible to receive a dividend payment for the current year and the number of estates and successors eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

(3) dividing the amount determined under (1) of this subsection by the amount determined under (2) of this subsection."

Renumber the following bill sections accordingly.

Page 4, line 29, through page 5, line 15:

Delete all material and insert:

"* Sec. 17. The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT; NOTIFICATION. (a) Sections 2, 4, 6, 8, 9, 11, 13, and 15 of this Act take effect only if, before July 1, 2022, revenue laws anticipated

to generate at least an estimated \$160,000,000 of new revenue each year have not been passed by the Thirty-Second Alaska State Legislature and enacted into law.

(b) The commissioner of revenue shall notify the revisor of statutes if, before July 1, 2022, revenue laws anticipated to generate at least an estimated \$160,000,000 of new revenue each year have not been passed by the Thirty-Second Alaska State Legislature and enacted into law.

*** Sec. 18.** If, under sec. 17 of this Act, secs. 2, 4, 6, 8, 9, 11, 13, and 15 of this Act take effect, they take effect July 1, 2023."

Renumber the following bill section accordingly.

Page 5, line 16:

Delete "sec. 12"

Insert "sec. 18"

[9:09:26 AM](#)

SENATOR HUGHES objected for discussion purposes.

[9:09:36 AM](#)

SENATOR KIEHL explained Conceptual Amendment 7. He directed attention to the last three lines of page 5 and to page 6. He explained that the Fiscal Policy Working Group (FPWG) strongly recommended that the legislature pass a comprehensive solution to the state's fiscal policy. This amendment would make SB 53 conditional on the enactment of laws prior to July 1, 2022, that would establish new annual revenue of \$160 million, which is not as much as he would like to see raised. Amendment 7 was written to be broad and permissive. New revenue could be raised by an increase to the Oil and Gas Property Tax, changes to the oil and gas per barrel credits that the commissioner of the Department of Revenue (DOR) presented, or a broad-based tax like income or sales taxes, he said. He characterized it as a good faith effort to move a comprehensive proposal forward.

[9:11:14 AM](#)

SENATOR HUGHES stated that she was also a FPWG participant. The FPWG stressed the importance of moving the components forward as a package. She acknowledged that FPWG members compromised. She highlighted that she has a history of urging the legislature to reduce state government spending but the legislature does not have the votes for those kinds of reductions at this point. One of the primary constitutional duties of the legislature is to pass the budget each year. The legislature must be able to fund

its services and it cannot accrue debt as the federal government can do. She said it is hard to support Conceptual Amendment 7 but she will do so as a good faith effort to settle the PFD issue and move forward on other issues.

[9:12:42 AM](#)

At ease

[9:13:28 AM](#)

CHAIR HOLLAND reconvened the meeting.

[9:13:40 AM](#)

SENATOR HUGHES recapped comments she made prior to the committee break.

[9:15:10 AM](#)

SENATOR HUGHES removed her objection.

CHAIR HOLLAND asked Senator Shower to comment but he was unable to do so due to audio difficulties.

[9:16:52 AM](#)

At ease

[9:19:53 AM](#)

CHAIR HOLLAND reconvened the meeting.

[9:20:05 AM](#)

SENATOR SHOWER acknowledged that he could now hear the committee (via teleconference).

[9:20:34 AM](#)

SENATOR SHOWER asked for a recap of Conceptual Amendment 7 since he missed some comments due to audio difficulties.

[9:20:59 AM](#)

CHAIR HOLLAND noted the committee was experiencing some ongoing audio difficulties.

[9:21:06 AM](#)

SENATOR KIEHL stated that the core changes of Conceptual Amendment 7 are on page 6, which would add one more condition to SB 53. It would require the legislature to enact into law \$160 million in new annual revenue. Although he was unsure \$160 million was sufficient, it would provide a good faith effort to pass a comprehensive fiscal policy as per the FPWG recommendations.

CHAIR HOLLAND objected for discussion purposes since the objection was previously removed.

9:22:15 AM

SENATOR SHOWER said he agreed with Senator Kiehl that the FPWG developed a comprehensive plan. He noted FPWG members had different ideas on solutions to solve each component, the group supported a comprehensive plan. He said he does not want to raise taxes, but he acknowledged the need to provide a balanced approach. He offered his support for Conceptual Amendment 7 as a good faith effort to adopt the FPWG's recommendations for a balanced approach. It's time for the Senate to lead, he said.

9:23:39 AM

SENATOR MYERS stated it was important to note for members who represent conservative parts of the state that the point is not to provide the state with revenue but to establish a different source of revenue. He remarked that the state will obtain revenue even if nothing is done. The state will either raise revenue or obtain it from the permanent fund dividend funds, which would be unacceptable to him. The goal is not to grow taxes or government but to alter the structure, he said. He offered his view that the state has experienced some structural issues in revenue collection for the past forty years, which ensures that government will continue to grow. For a number of years, revenue was related to North Slope oil activities, but as the state moves away from oil revenues and towards funding state government from its investments, it loses that connection. He vowed to review the tax structure to make the government tie back to the economy and be more accountable to the voters, taxpayers and businesses. The private sector should drive the economy not the government, he said.

9:25:55 AM

SENATOR HUGHES remarked that the public should understand that the state will be making some adjustments due to declining annual revenue from oil. She offered her assurance that as revenue proposals come before the legislature language will link them to the spending cap in an effort to halt runaway spending and provide checks and balances in state government.

9:27:07 AM

SENATOR SHOWER said Conceptual Amendment 7 is a comprehensive, balanced bipartisan approach, one in which the FPWG addressed proposed taxes but also reductions in spending. Although the

\$200 million in reductions is not as much as he would like, it acknowledges that the state must continue to reduce spending.

[9:28:07 AM](#)

CHAIR HOLLAND removed his objection.

CHAIR HOLLAND heard no further objection, so Conceptual Amendment 7 was adopted.

[9:28:17 AM](#)

SENATOR KIEHL moved Amendment 8, work order 32-GS1693\A.9.

32-GS1693\A.9
Nauman
8/26/21

AMENDMENT 8

OFFERED IN THE SENATE

BY SENATOR KIEHL

Page 2, lines 15 - 23:

Delete all material and insert:

"* **Sec. 2.** AS 37.13.145(b) is amended to read:

(b) **Except as provided in (g) of this section,**
[AT THE END OF] each fiscal year, the **legislature may appropriate** [CORPORATION SHALL TRANSFER] from the earnings reserve account to the dividend fund established under AS 43.23.045, **the amount necessary to distribute the following amounts for permanent fund dividends to each eligible individual for each of the following fiscal years:**

(1) \$1,100 in fiscal year 2022;

(2) \$1,500 in fiscal year 2023;

(3) \$2,000 in fiscal year 2024; and

(4) \$2,250 in fiscal year 2025 [50 PERCENT

OF THE INCOME AVAILABLE FOR DISTRIBUTION UNDER AS 37.13.140].

* **Sec. 3.** AS 37.13.145(b), as amended by sec. 2 of this Act, is amended to read:

(b) **Each** [EXCEPT AS PROVIDED IN (g) OF THIS SECTION, EACH] fiscal year, the legislature may appropriate from the earnings reserve account to the

(1) dividend fund established under AS 43.23.045, 50 percent of the amount available for appropriation under AS 37.13.140(b); and

(2) general fund, 50 percent of the amount available for appropriation under AS 37.13.140(b) [THE AMOUNT NECESSARY TO DISTRIBUTE THE FOLLOWING AMOUNTS FOR PERMANENT FUND DIVIDENDS TO EACH ELIGIBLE INDIVIDUAL FOR EACH OF THE FOLLOWING FISCAL YEARS:

- (1) \$1,100 IN FISCAL YEAR 2022;
- (2) \$1,500 IN FISCAL YEAR 2023;
- (3) \$2,000 IN FISCAL YEAR 2024; AND
- (4) \$2,250 IN FISCAL YEAR 2025]."

Renumber the following bill sections accordingly.

Page 3, following line 21:

Insert a new bill section to read:

"* **Sec. 6.** AS 37.13.145 is amended by adding a new subsection to read:

(g) The amount appropriated for permanent fund dividends each year under (b) of this section may be reduced if the amount necessary to distribute the dividends for that year exceeds the amount available for appropriation under AS 37.13.140(b)."

Renumber the following bill sections accordingly.

Page 4, line 28:

Delete "and 37.13.145(f) "

Insert ", 37.13.145(f), and 37.13.145(g) "

Page 5, line 15:

Delete "Section 9 of this Act takes"

Insert "Sections 2, 6, and 11 of this Act take"

Page 5, line 16:

Delete "sec. 12"

Insert "sec. 14"

Delete "July 1, 2021"

Insert "July 1, 2025"

CHAIR HOLLAND objected for discussion purposes.

[9:28:32 AM](#)

SENATOR KIEHL explained Amendment 8. He stated that the FPWG unanimously agreed that the PFD and fiscal gap could not be solved in one year. Amendment 8 would stair-step the 50:50 proposal over four fiscal years (FY) rather than using the current PFD funding of spending available cash. The 50:50 plan would divide the state's revenue available for appropriation,

with 50 percent for state government services and 50 percent for the PFD. Under Amendment 8, the PFD amount would be approximately \$1,100 for this year's PFD and reach the 50:50 plan by FY 2026. This would allow the legislature to phase in revenue and budget cuts envisioned by the FPWG, which will protect the long-term value of the Alaska Permanent Fund. Amendment 8 would provide a \$1,500 PFD in FY 2023, \$2,000 PFD in FY 2024, and reach a \$2,250 PFD in FY 2025 and thereafter. This would provide a 50:50 split of the sustainable draw. This approach would allow the legislature to follow the law without overdrawing the permanent fund. He said he understood the Alaska Constitution recognizes that appropriations are binding law. However, the legislature should follow the statutes it enacts. At the same time, it is important to protect the long-term value of the state's endowment fund. Markets surge up and decline and are unpredictable. Amendment 8 will allow the state to maintain a 5 percent POMV draw even when markets surge, which will move the state forward.

[9:31:38 AM](#)

SENATOR MYERS stated that SB 53 is tied to the proposed constitutional amendment [SJR 6], which would include a 50:50 PFD. The problem is that it would go into effect in FY 2024 if approved by the voters. He expressed concern that this would fall in year three of the stair-step approach in Amendment 8 so it would be overridden by the proposed constitutional amendment.

[9:32:27 AM](#)

SENATOR KIEHL recalled that the conditional effect [Amendment 3 A.11] adopted by the committee on 9/27/21 was not specific to the effective date of the constitutional amendment so it would not necessarily create a conflict.

SENATOR MYERS said the effective date of SJR 6 is July 1, 2023, or FY 2024.

[9:33:07 AM](#)

At ease

[9:33:12 AM](#)

CHAIR HOLLAND reconvened the meeting.

[9:33:42 AM](#)

CHAIR HOLLAND explained that his overriding concern is that the approach taken in Amendment 8 will require Alaskans to bear the brunt while the legislature attempts to achieve fiscal stability. He said he preferred the 5 percent POMV 50:50 plan be

enacted this year. He advised members that a different approach will be taken up in a subsequent amendment. That approach would use a bridge fund or an alternate funding option to achieve a \$2,300 PFD, he said. He stated that he will not support Amendment 8.

9:34:39 AM

SENATOR HUGHES expressed concern that Amendment 8 would put the proposed constitutional amendment at risk. She opined that the public is frustrated because the legislature has not solved the PFD and fiscal issues. Currently, the legislature's approval ratings are very low, she said. She advocated solving these issues in a manner that could regain the public's trust by passing legislation to settle the PFD calculation and providing solutions to achieve a sustainable budget.

9:35:50 AM

SENATOR HUGHES expressed concern that if the amount of this year's PFD is as low as those issued in the last six years, the public will likely vote no at the polls in November 2022. Further, voters might vote against a constitutional amendment solely because of the delayed effective date of FY 2025 and not due to a lack of support for the 50:50 plan embodied in SB 53 and SJR 6. If the constitutional amendment were to fail, the legislature would need to start the process over, which would put the state in a real bind, she said. Although she said she appreciated the math and logic used in Amendment 8, members must consider not only what will pass in the legislature but what will pass muster with the voters. She highlighted that some members have expressed concern about taking an additional draw from the permanent fund. She has heard conversations from the Senate majority and House majority and minority expressing support. The Speaker of the House said she would be open to a package on a temporary basis if it contained revenues that could close the fiscal gap. She cautioned against assuming that the stair-step approach is the only one that could pass the legislature. Since the approach in Amendment 8 could derail the constitutional amendment, she said she cannot support it. The public needs to feel as though the legislature truly solved this. She offered her belief that if the legislature could pay a 50:50 split this year and next year, the public would strongly support the constitutional amendment. It would allow the legislature to address other issues that have been shoved aside in recent years.

9:38:10 AM

CHAIR HOLLAND recognized Representative McCarty.

9:38:20 AM

SENATOR SHOWER pointed out that three committee members serve on the FPWG. The group considered multiple approaches to solve the problem. He said he favors a different approach than the one in Amendment 8. He recalled a floor speech made earlier this year in which a long-serving legislator stated that the reason the legislature was considering raising taxes was to pay for government and not to provide funding for the PFD. In 2016 and 2017, changes were made to the PFD process by a former governor. Until then, funding the PFD was considered the first call and any remaining revenue was available to fund government services or were redeposited to the permanent fund. He questioned whether the laws were really in conflict since the legislature could decide to adhere to the statutory formula and follow Senate Bill 26. He said he did not believe the laws are in conflict. The issue only arises when funds are insufficient to fund the dividend and government services and which one has the first priority, he said.

9:40:08 AM

SENATOR SHOWER maintained that the 50:50 plan will work although he acknowledged that some legislators have issues with it. However, there are different approaches to arrive at the 50:50 plan. Since the permanent fund has enjoyed good growth, he stated his preference was to use some permanent fund monies to provide bridge funding. It might make it a little easier to pass this. He offered his view that a good plan is available. He said it would show good faith to the people that the legislature does not take a stair-step approach but go right to the 50:50 approach. He indicated he would not support Amendment 8.

9:42:11 AM

SENATOR KIEHL offered his view that \$160 million is not enough to achieve the 50:50 plan, which would require at least \$500 million or more in new revenues. Without new revenue sources the legislature must drastically cut government services. He pointed out that the last effort to drastically cut government in Alaska led to a recall petition. He said he shared Senator Hughes' concern that the voters might not support a constitutional amendment but that vote cannot be predicted with any certainty. In fact, he has learned to never underestimate the voters' ability to make the right decisions. He cautioned against using a proposal that would make radical changes that would debilitate the economy and to Alaskans who depend on plowed roads and other services provided by government. He offered his view that with the stair-step approach coupled with ensuring voters have

sufficient information to understand that a steadily rising PFD will lead to a 50:50 split, it can work. Amendment 8 represents a responsible approach to achieve the 50:50 plan over a few years.

9:44:28 AM

CHAIR HOLLAND maintained his objection.

A roll call vote was taken. Senator Kiehl voted in favor of Amendment 8 and Senators Hughes, Myers, Shower and Holland voted against it. Therefore, Amendment 8 failed by a 1:4 vote.

9:45:05 AM

CHAIR HOLLAND moved Amendment 6, work order 32-1693\A.6, which was previously tabled [at the August 27, 2021, meeting].

32-GS1693\A.14

Nauman

8/27/21

AMENDMENT 6

OFFERED IN THE SENATE
TO: SB 53

BY SENATOR HOLLAND

Page 4, following line 28:

Insert a new bill section to read:

"* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

USE OF THE EARNINGS RESERVE ACCOUNT.
Notwithstanding AS 37.13.145(e) and (f), for the fiscal years ending June 30, 2022, and June 30, 2023, in addition to the amount available for appropriation calculated under AS 37.13.140(b), the legislature may appropriate from the earnings reserve account to the general fund an additional 1.5 percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this section, "average market value of the fund" has the meaning given in AS 37.13.140(b)."

Renumber the following bill sections accordingly.

Page 5, line 15:

Delete "Section 9 of this Act takes"

Insert "Sections 9 and 10 of this Act take"

Page 5, line 16:
Delete "sec. 12"
Insert "sec. 13"

[9:45:27 AM](#)

At ease

[9:45:55 AM](#)

CHAIR HOLLAND reconvened the meeting.

[9:46:05 AM](#)

CHAIR HOLLAND explained that Amendment 6 would provide a 1.5 percent POMV draw with the same five-year lag used for the annual draw. This would produce \$1 billion per year for the next two years from the Earnings Reserve Account (ERA) to cover projected budget shortfalls. He characterized it as sustainable and reliable draw. The permanent fund has experienced a 9 percent annual growth in the last 40 years, a 12 percent over the last five years, and 25 percent growth over the last 12 months. He offered his belief that the 1.5 percent draw is in the safety zone for draws from the permanent fund.

[9:47:39 AM](#)

SENATOR KIEHL objected for discussion purposes.

[9:48:02 AM](#)

SENATOR KIEHL noted that the timing on the returns makes a big difference. The projected growth of the fund over 5-10 years is estimated at an average of 6.2 percent. However, averages are deceiving and it makes an even bigger difference for draws. In the process of reviewing how to stress test its projections, the FPWG considered a flat 6.2 percent growth rate. It also reviewed growth during several historic periods: from 2000-2008 and from 2009-2017, in which the permanent fund performed at 6.3 and 6.5 percent, respectively. He noted that both periods started with a recession and by the end of the timeframe the permanent fund was substantially reduced because it started with a draw. He expressed concern that the oversize draw for two years proposed in Amendment 6 could coincide with a drop in the market and damage the permanent fund. He maintained his objection.

[9:49:51 AM](#)

CHAIR HOLLAND recognized Representative Kronk's presence.

[9:49:59 AM](#)

SENATOR HUGHES said she understood Senator Kiehl's concern. She stated that the FPWG stress tested the 6.2 percent rate but did not use the five-year lag. Amendment 6 would provide a 1.5 percent POMV draw this year based on \$83 billion, which would bring it up to a 5 percent POMV effective rate. Dr. Rietveld, an international sovereign wealth fund advisor, provided a PowerPoint to the committee yesterday. Dr. Rietveld did not think a 5 percent draw was reckless. Instead, he found it to be a reasonable draw. Recently, the House passed a budget with a \$1,100 PFD, which is not fully funded. Since the 5 percent draw is used to fund government services, there is only enough funding available for a \$600 PFD this year. It would require additional funds drawn from the ERA. The legislature would not even be able to reach the stair-step approach Senator Kiehl proposed, she said.

9:52:36 AM

SENATOR HUGHES argued that the legislature cares about the strength of the fund. However, the permanent fund has exceeded predictions. In 2019, the Alaska Permanent Fund Corporation predicted the fund would reach \$80 billion in 2028, but it has already reached nearly \$83 billion. She maintained that if this proposal package were to pass the legislature and a constitutional amendment is adopted by a vote of the people in November 2022 to address the PFD, it would garner public trust. She highlighted that the legislature always has the ability to reduce the amount of the draw. She said she wants to preserve the fund for her children and grandchildren. She acknowledged that the Senate Finance co-chairs share concerns about the permanent fund's growth. However, many Alaskans could use the PFD right now and a \$600 PFD is simply inadequate to regain the public trust, she said.

9:54:48 AM

SENATOR SHOWER said he agrees philosophically with Senator Hughes. He acknowledged the math, logic and political considerations with the PFD draw. Not only did the endowment expert say it is reasonable to take draws but other countries are drawing from their endowment funds to address economic problems related to COVID-19. He advocated for the legislature to use the windfall earnings now to provide 1 percent or more funding from the permanent fund windfall to bridge the fiscal gap for a year or two in order to help Alaskans.

SENATOR SHOWER acknowledged the importance of the legislature to express empathy to show people that the legislature cares. After cutting the PFDs for six years, passing Amendment 6 would

express the legislature's good faith and the additional 1.5 percent will provide a bridge and help the economy. He stated that taxes will need to be raised. In fact, the legislature currently does not have the ability to fund the PFD according to the provisions adopted in Senate Bill 26 unless it takes an additional percentage draw from the permanent fund. Otherwise, as Senator Kiehl mentioned, the legislature must find another \$500 million to fund this year's PFD, likely through taxes. He reminded members that the 50:50 plan would also provide \$750 million more to fund government services. Further, future draws can be adjusted down since the legislature is not required to take the entire 5 percent POMV draw. Currently, the 50:50 plan is a balanced proposal. He cautioned against going too far one way or the other on the PFD size because it will affect legislative support for the overall plan. He viewed the 50:50 plan as a compromise plan. He offered his belief that simply having a plan in place to help people and help the economy that is ready to be implemented could help sway public opinion.

[9:58:40 AM](#)

CHAIR HOLLAND related some statistics related to the POMV for permanent fund earnings. He said for the first 20 years of the permanent fund, it bounced around 4 percent, the next 10 years it fluctuated around 3 percent and the next 10 years, it fluctuated around 2 percent. In fact, even though the permanent fund continues to grow every year, the legislature tweaks down the percentage of the PFD. Currently, the proposed \$1,100 PFD is 1.1 percent POMV. The 50:50 proposal under consideration today would bring the PFD up to 2.5 percent. This effort would make a commitment to Alaskans this year and in future years. Some members advocate saving the permanent fund for their children and grandchildren. However, children and grandchildren today need the full PFD. He questioned any assurance Alaskans have that the legislature will ever provide a full dividend if it will not do so now. He advocated for providing the additional 1.5 percent POMV in Amendment 6 now.

[9:59:57 AM](#)

SENATOR KIEHL said he did not fact check Chair Holland's statistics but offered corrections. First, during the first 30 years of the program, the legislature did not tweak down the PFD, he said. However, the changes Chair Holland described might be related to how the permanent fund was invested, he said. Initially, the permanent fund investments were for bonds and money markets but eventually the permanent fund invested in the mix of investments it uses today. He emphasized that the statutory net income is statutory income. The formula is the

formula. Any change in the POMV of the fund distributed in PFDs was not due to actions of the legislature. There was not a shift in equity from what Alaskans received as a direct PFD from the PFD program. Second, he indicated he reviewed Dr. Rietveld's slides from yesterday's presentation. He referred to a bullet point [on slide 13], which read, "Moving averaging is essential." Dr. Rietveld indicated that the legislature should not look at today's value but must smooth the fund over years. Dr. Rietveld specifically said on his last slide that the legislature must ensure unanticipated future revenue windfalls aren't immediately spent but rather grow the APF or replenish other fiscal buffers. Dr. Rietveld's advice to Alaska was to be careful. That was his guidance, he said.

10:02:00 AM

SENATOR KIEHL said he appreciated the needs in a state where the governor turned down additional unemployment benefits for people who lost their jobs because of the pandemic. He said he shared the public's frustrations since certainly there are needs-based programs that should be increased. He indicated he was opposed considering overdrawing the permanent fund.

10:02:40 AM

SENATOR HUGHES suggested that one of the reasons the governor acted was due to the state's need for employees. She said she just realized she had not finished her earlier remarks. She recapped her remarks, that the additional 1.5 percent draw would provide an effective rate of about 5 percent. However, she said she had failed to relate the stress testing the FPWG conducted. The stress test reviewed two recessions, yet the fund grew by 6.3 percent. Even in a downturn taking an effective rate draw of 5 percent would still allow a 1.3 percent fund growth. Therefore, a temporary 5 percent draw would not erode the fund. She pointed out Dr. Rietveld said in 2010 the Harvard Endowment Fund drew out a 6.1 percent effective rate during a downturn. However, this proposal consists of a 5 percent draw during this good market uptick. Lastly, under the 50:50 plan the proposed PFD amount would be \$2,300, which in 1982 dollars was \$830. She offered her view that the PFD amount being proposed is quite reasonable.

10:05:12 AM

SENATOR MYERS said in January 2021, he was hesitant to take money out of the permanent fund to fill the funding gap unless the legislature had a fiscal plan in place moving forward. Now the legislature has that plan in place. Passing the constitutional amendment is the way to address any concerns

about the potential that ad hoc draws might take out too much money from the permanent fund for dividends or to fund government. Legislative Legal Services has been advising the committee that technically, per *Wielechowski v. State*, the legislature already has the legal authority to do everything proposed in SB 53. He acknowledged that this bill is somewhat redundant but it would create a plan to put the PFD formula in the Alaska Constitution so violations of the 5 percent statutory formula cannot occur. He asserted that even without passing Amendment 6 or SB 53, the legislature could decide to draw 6-7 percent from the permanent fund until the CBR is down to zero.

10:07:24 AM

SENATOR MYERS said he did not think anyone wants that to happen but the political pressure to keep spending without a constitutional amendment could make that occur. This discussion reinforces the importance of passing the constitutional amendment.

10:08:00 AM

SENATOR SHOWER agreed with Senator Kiehl that the lack of additional unemployment insurance funds hurts. However, the legislature could take some of the state's funds to help people and Alaska's economy rather than using federally-funded unemployment benefits. He acknowledged that Dr. Reitveld cautioned the legislature about using windfalls. He recalled asking Dr. Reitveld if it was reasonable to use endowment funds during the pandemic and his response was yes, that it was a reasonable draw. Finally, everyone agrees that the legislature must solve the problem. Each proposal that has been put forward has been stress tested for the worst conditions. Each proposal could solve the problem moving forward. Although he does not favor drawing down the permanent fund without a plan, he is willing to accept some risk. He concluded that it is reasonable to provide bridge funding because a long-term fix for the permanent fund is planned with the constitutional amendment.

SENATOR HOLLAND said he agreed with Senator Shower's remarks.

10:11:28 AM

SENATOR KIEHL maintained his objection.

10:11:32 AM

A roll call vote was taken. Senators Myers, Shower, Hughes, and Holland voted in favor of Amendment 6 and Senator Kiehl voted against it. Therefore, Amendment 6 passed by a 4:1 vote.

CHAIR HOLLAND announced Amendment 6 was adopted by a vote of 4 yeas and 1 nay.

[10:12:07 AM](#)

CHAIR HOLLAND moved Amendment 9, work order 32-GS1693\A.21.

32-GS1693\A.21
Nauman
8/31/21

AMENDMENT 9

OFFERED IN THE SENATE
TO: SB 53

BY SENATOR HOLLAND

Page 1, lines 3 - 4:

Delete "providing for an effective date by
repealing the effective date of sec. 8, ch. 16, SLA
2018;"

Page 2, line 6:

Delete "**five** [5.25]"
Insert "five"

Page 2, following line 14:

Insert new bill sections to read:

"* **Sec. 2.** AS 37.13.140(b), as amended by sec. 1 of
this Act, is amended to read:

(b) The corporation shall determine the amount
available for appropriation each year. The amount
available for appropriation is **4.5** [FIVE] percent of
the average market value of the fund for the first
five of the preceding six fiscal years, including the
fiscal year just ended, computed annually for each
fiscal year in accordance with generally accepted
accounting principles. In this subsection, "average
market value of the fund" includes the balance of the
earnings reserve account established under
AS 37.13.145, but does not include that portion of the
principal attributed to the settlement of State v.
Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court,
First Judicial District). The amount available for
appropriation may not exceed the balance in the
earnings reserve account described in AS 37.13.145.

* **Sec. 3.** AS 37.13.140(b), as amended by secs. 1
and 2 of this Act, is amended to read:

(b) The corporation shall determine the amount available for appropriation each year. The amount available for appropriation is five [4.5] percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this subsection, "average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District). The amount available for appropriation may not exceed the balance in the earnings reserve account described in AS 37.13.145."

Renumber the following bill sections accordingly.

Page 5, lines 13 - 14:

Delete all material and insert:

"* Sec. 12. The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. Sections 2 and 3 of this Act take effect only if, by November 30, 2022, the voters have not approved a resolution that appears on a statewide election ballot that amends the Constitution of the State of Alaska to

(1) specify that the amount that may be appropriated from the Alaska permanent fund is a draw based on the average fiscal-year-end market value of the permanent fund; and

(2) require deposit of the unencumbered balance of the earnings reserve account established under AS 37.13.145 into the Alaska permanent fund to become part of the principal of the fund."

Renumber the following bill sections accordingly.

Page 5, line 15:

Delete "Section 9"

Insert "Section 11"

Page 5, following line 15:

Insert new bill sections to read:

"* **Sec. 14.** If, under sec. 12 of this Act, sec. 2 of this Act takes effect, it takes effect July 1, 2023.

* **Sec. 15.** If, under sec. 12 of this Act, sec. 3 of this Act takes effect, it takes effect July 1, 2028."

Renumber the following bill section accordingly.

Page 5, line 16:

Delete "sec. 12"

Insert "secs. 13 - 15"

SENATOR HUGHES objected for discussion purposes.

[10:12:18 AM](#)

CHAIR HOLLAND explained that Amendment 9 was another idea he thought was important to bring before the committee for discussion. He asked his staff to explain Amendment 9.

[10:12:41 AM](#)

ED KING, Staff, Senator Roger Holland, Alaska State Legislature, Juneau, Alaska, on behalf of Senator Holland, explained that Amendment 9 was a good faith effort especially considering that Amendment 6 was adopted, which will draw an additional 1.5 percent from the ERA for a total 5 percent effective rate. He stated that there was some concern that the additional 1.5 percent draw may be an unsustainable way to transition towards a long-term stable plan. Amendment 9 would provide some conditional language that would effectively pay back the ERA for the additional draw. He explained that the 1.5 percent draw over the next two years would total roughly \$1.9 billion. In the event that the rest of the fiscal plan fell apart, such that the constitutional amendment failed and new revenues were not enacted, Amendment 9 would reduce the percent of market value (POMV) for the next 5 years from 5 percent to 4.5 percent. The reduction of .5 percent over five years would result in retaining an additional \$1.9 billion in the ERA, relative to a 5 percent draw. He summarized that this would provide a payback provision.

[10:14:20 AM](#)

SENATOR HUGHES recalled that Senator Kiehl previously expressed concern that it could set precedent if the constitutional amendment were to fail. This is a concern, she said. Amendment 9 would provide a way to address these concerns some have with drawing out additional funds now. She pointed out that if the constitutional amendment failed in 2022, the legislature could

do this in 2023 because the statute does not require drawing out the full 5 percent. Even without Amendment 9, a future legislature could make that adjustment she said.

10:15:37 AM

CHAIR HOLLAND clarified that a future legislature would have the option to reduce the 5 percent POMV draw.

SENATOR HUGHES agreed.

10:15:53 AM

SENATOR KIEHL said Amendment 9 is important since Amendment 6 was just adopted. He said he was a little less than optimistic that a future legislature would stick to this language but it was important to aspire to it moving forward. He offered his support for Amendment 9.

10:15:41 AM

CHAIR HOLLAND stated his intention to withdraw Amendment 9 because of his concern that the legislature might revert to the statutory formula and decide to pay a zero dividend. He explained that he brought Amendment 9 up for discussion purposes.

10:18:14 AM

SENATOR SHOWER agreed with Senator Kiehl that Amendment 9 was intriguing because it is important moving forward not to overspend the fund. He said he appreciated having time outside the meeting to consider the mechanics of Amendment 9.

10:19:38 AM

SENATOR HUGHES offered her support for Amendment 9. She opined that nothing would prevent the legislature in 2023 from doing what Amendment 9 proposes. For those concerned about the 5 percent draw, Amendment 9 highlights the option to draw less than the 5 percent POMV depending on its effect on the PFD.

10:20:51 AM

CHAIR HOLLAND said Amendment 9 appears to provide motivation for a fix if the constitutional amendment does not pass. He expressed concern that it might be dangerous to reduce the POMV to 4.5 percent today given the current economic situation

10:21:48 AM

CHAIR HOLLAND withdrew Amendment 9.

10:22:08 AM

SENATOR MYERS moved Amendment 10, work order 32-GS1693\A.19.

CHAIR HOLLAND objected for discussion purposes.

32-GS1693\A.19

Nauman

8/31/21

AMENDMENT 10

OFFERED IN THE SENATE

BY SENATOR MYERS

Page 1, lines 3 - 4:

Delete "relating to an advisory vote on the permanent fund; providing for an effective date by repealing the effective date of sec. 8, ch. 16, SLA 2018;"

Page 2, line 6:

Delete "five [5.25]"

Insert "five"

Page 2, following line 14:

Insert a new bill section to read:

"* **Sec. 2.** AS 37.13.140, as amended by sec. 1 of this Act, is amended to read:

Sec. 37.13.140. Income. (a) Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. Net income of the fund shall be computed annually as of the last day of the fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. Income available for distribution equals 21 percent of the net income of the fund for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the fund for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145.

(b) The corporation shall determine the amount available for appropriation each year. The amount available for appropriation is five percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this subsection, "average market value

of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District). [THE AMOUNT AVAILABLE FOR APPROPRIATION MAY NOT EXCEED THE BALANCE IN THE EARNINGS RESERVE ACCOUNT DESCRIBED IN AS 37.13.145.] "

Renumber the following bill sections accordingly.

Page 2, following line 23:

Insert a new bill section to read:

"* **Sec. 4.** AS 37.13.145(b), as amended by sec. 3 of this Act, is amended to read:

(b) At the end of each [EACH] fiscal year, the corporation shall transfer [LEGISLATURE MAY APPROPRIATE] from the earnings reserve account to the [(1)] dividend fund established under AS 43.23.045, 50 percent of the income [AMOUNT] available for distribution [APPROPRIATION] under AS 37.13.140 [AS 37.13.140(b); AND

(2) GENERAL FUND, 50 PERCENT OF THE AMOUNT AVAILABLE FOR APPROPRIATION UNDER AS 37.13.140(b)]. "

Renumber the following bill sections accordingly.

Page 3, following line 10:

Insert a new bill section to read:

"* **Sec. 6.** AS 37.13.145(c), as amended by sec. 5 of this Act, is amended to read:

(c) After the transfer [APPROPRIATIONS] under (b) and an appropriation under (g) of this section, the corporation shall transfer [LEGISLATURE MAY APPROPRIATE] from the earnings reserve account to the principal of the fund an amount sufficient to offset the effect of inflation on the principal of the fund during that fiscal year. However, none of the amount transferred shall be applied to increase the value of that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District) on July 1, 2004. The corporation shall calculate the amount to transfer to the principal under this subsection by

(1) computing the average of the monthly United States Consumer Price Index for all urban consumers for each of the two previous calendar years;

(2) computing the percentage change between the first and second calendar year average; and

(3) applying that rate to the value of the principal of the fund on the last day of the fiscal year just ended, including that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District)."

Renumber the following bill sections accordingly.

Page 3, following line 21:

Insert new bill sections to read:

"* Sec. 8. AS 37.13.145(d), as amended by sec. 7 of this Act, is amended to read:

(d) Notwithstanding (b) of this section, income earned on money awarded in or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned on the money, or on the earnings of the money shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for distribution [APPROPRIATIONS] to the dividend fund, for transfers [UNDER AS 37.13.140(b) OR] to the principal under (c) of this section, or for an appropriation under (g) of this section, and shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

*** Sec. 9.** AS 37.13.145 is amended by adding new subsections to read:

(g) The legislature may not appropriate from the earnings reserve account to the general fund a total amount that exceeds the amount available for appropriation under AS 37.13.140(b) in a fiscal year.

(h) The combined total of the transfer under (b) of this section and an appropriation under (g) of this section may not exceed the amount available for appropriation under AS 37.13.140(b)."

Renumber the following bill sections accordingly.

Page 3, following line 25:

Insert a new bill section to read:

"* **Sec. 11.** AS 37.13.300(c), as amended by sec. 10 of this Act, is amended to read:

(c) Net income from the mental health trust fund may not be included in the computation of net income or market value [THE AMOUNT] available for distribution or appropriation under AS 37.13.140 [AS 37.13.140(b)]."

Renumber the following bill sections accordingly.

Page 4, following line 1:

Insert a new bill section to read:

"* **Sec. 13.** AS 37.14.031(c), as amended by sec. 12 of this Act, is amended to read:

(c) The net income of the fund shall be determined by the Alaska Permanent Fund Corporation in the same manner the corporation determines the net income of the Alaska permanent fund under AS 37.13.140 [AND SHALL BE COMPUTED ANNUALLY AS OF THE LAST DAY OF THE FISCAL YEAR IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, EXCLUDING ANY UNREALIZED GAINS OR LOSSES]."

Renumber the following bill sections accordingly.

Page 4, following line 27:

Insert a new bill section to read:

"* **Sec. 15.** AS 43.23.025(a), as amended by sec. 14 of this Act, is amended to read:

(a) By October 1 of each year, the commissioner shall determine the value of each permanent fund dividend for that year by

(1) determining the total amount available for dividend payments, which equals

(A) the amount of income of the Alaska permanent fund transferred [APPROPRIATED] to the dividend fund under AS 37.13.145(b) during the current year;

(B) plus the unexpended and unobligated balances of prior fiscal year appropriations that lapse into the dividend fund under AS 43.23.045(d);

(C) less the amount necessary to pay prior year dividends from the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and 43.23.055(3) and (7);

(D) less the amount necessary to pay dividends from the dividend fund due to eligible applicants who, as determined by the department, filed for a previous year's dividend by the filing deadline but who were not included in a previous year's dividend computation;

(E) less appropriations from the dividend fund during the current year, including amounts to pay costs of administering the dividend program and the hold harmless provisions of AS 43.23.240;

(2) determining the number of individuals eligible to receive a dividend payment for the current year and the number of estates and successors eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

(3) dividing the amount determined under (1) of this subsection by the amount determined under (2) of this subsection."

Renumber the following bill sections accordingly.

Page 4, line 29, through page 5, line 15:

Delete all material and insert:

*** Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. Sections 2, 4, 6, 8, 9, 11, 13, and 15 of this Act take effect only if, by November 30, 2023, the voters have not approved a resolution that appears on a statewide election ballot that amends the Constitution of the State of Alaska to

(1) specify that the amount that may be appropriated from the Alaska permanent fund is a draw based on the average fiscal-year-end market value of the permanent fund and that half of the amount of the draw shall be used for permanent fund dividends; and

(2) require deposit of the unencumbered balance of the earnings reserve account established under AS 37.13.145 into the Alaska permanent fund to become part of the principal of the fund.

*** Sec. 18.** If, under sec. 17 of this Act, secs. 2, 4, 6, 8, 9, 11, 13, and 15 of this Act take effect, they take effect July 1, 2023."

Renumber the following bill sections accordingly.

Page 5, line 16:

Delete "sec. 12"

Insert "sec. 18"

CHAIR HOLLAND objected for discussion purposes.

10:22:16 AM

SENATOR MYERS explained Amendment 10. He pointed out there was a drafting error in [Amendment 3 adopted on 8/27/21]. It indicated SB 53 would be automatically repealed if SJR 6 did not pass the legislature or was not approved in a statewide election. The original language in the conditional effect section of Amendment 3, page 6 read, "specify that the amount that may be appropriated from the Alaska permanent fund is a draw based on the average fiscal-year-end market value of the permanent fund; and.

SENATOR MYERS said additional language was needed on page 6, line 7. He read Amendment 10, page 6, line 7 would add, "half of the amount of the draw shall be used for permanent fund dividends; and".

10:23:42 AM

SENATOR MYERS expressed concern that a constitutional amendment related to the permanent fund would not pass at the ballot box unless it contains a 50:50 split between the funding for a PFD and for state government services. He suggested that while this is not necessary, it is important in the interest of clarity and to restore public trust by highlighting the legislature's intent.

10:24:34 AM

SENATOR KIEHL asked if Amendment 10 would effectively say that SB 53 only takes effect if this bill is not needed. He said if the constitutional amendment related to the PFD were to pass it would not matter what the statute said.

SENATOR MYERS answered that in theory the legislature could pass HJR 1 instead of SJR 6. HJR 1 includes a 5 percent POMV draw but it does not include any language on the PFD. If so, SB 53 would still stay in effect, according to the language in Amendment 3, he said. However, he did not think it would happen because HJR 1 would not likely pass at the ballot box if it passed the legislature. Still, it is important to signal to voters that the legislature is not just trying to fix with a draw for government but to constitutionally protect the PFD. He offered his view that adopting it could help restore the public trust, given everything that happened in the last five or six years.

10:26:06 AM

SENATOR KIEHL commented that this answered his question.

10:26:17 AM

MR. KING explained that Amendment 10 would add conditional language, such that if the 50:50 split for the PFD and government funding were not in the constitutional amendment language, the PFD statutes would revert to the original formula. He offered his belief that the intent is consistent with the previous committee discussion, that if the fiscal package doesn't pass in its entirety, that all of the provisions currently being discussed will be reversed.

10:27:03 AM

SENATOR MYERS said he understood Senator Kiehl's point was that Amendment 10 was redundant. He disagreed. For example, if HJR 1 passed without any language related to the PFD, it would effectively change the dividend statute to 50:50. However, according to the Alaska Supreme Court, the statute would be unenforceable because the Alaska Constitution did not contain language requiring that a dividend be paid. He said it is important to have the statutory language to line up with the Alaska Constitution. However, the constitutional amendment needs to look a certain way and narrow the focus.

10:28:10 AM

SENATOR KIEHL expressed concern that the language in Amendment 10 is so prescriptive for the constitutional language that it would make the bill moot. Other approaches could solve the problem without a prescriptive approach. Although the FPWG did not reach consensus on the approach the group discussed two plans. One approach the FPWG took was to place a formula in the Alaska Constitution. He opined that it was unlikely that such a proposal would have sufficient legislative support to make it to the ballot. However, never say never, he said. A second approach would explicitly require the PFD as provided by law with an exemption from the dedicated funds clause that would allow future legislatures to adjust the formula in an accountable way.

SENATOR KIEHL said that approach would avoid "crab walking" into a universal income or leaving a small \$2 PFD in 100 years. He said language could ensure the PFD is paid, but that voters have access to a PFD formula via the referendum process if they don't like what a legislature does. Amendment 10 would put the 50:50 formula in the Alaska Constitution. He suggested in terms of writing constitutional language and good statutes, it makes more sense to require a constitutional amendment that protects the

PFD rather than to require one specific constitutional amendment approach over all others. He said it would be tough to obtain the 14 votes in the Senate and the 27 votes in the House for any of these proposals. He suggested this approach may keep from "choking off the whole thing."

10:31:04 AM

SENATOR SHOWER agreed that the FPWG discussed two approaches to address the PFD formula: One approach was to guarantee the PFD in the Alaska Constitution. However, many legislators expressed angst about placing the formula in the Alaska Constitution in accordance with statute. A second approach was to place the formula in statute. Although the public can use the referendum process to overturn a statute, that process is expensive, difficult and often unsuccessful. The FPWG discussed inserting a safeguard if a constitutional amendment guaranteed the PFD in accordance with the statute, which was to require any changes made must be adopted by a vote of the people. He offered his view that the PFD issue will not be resolved without some "catch" since the legislature does not have to follow the statutes. Further, it's possible the guarantee could be met by issuing a \$1 PFD. He said these discussions didn't make it into the FPWG report but there must be some balance.

10:34:08 AM

At ease

10:36:23 AM

CHAIR HOLLAND reconvened the meeting.

10:36:28 AM

SENATOR MYERS moved Conceptual Amendment 1 to Amendment 10, on page 6, line 3 to change the date to 2022 to address a drafting error pointed out by staff during the break. He noted that 2022 is the election year, not 2023.

CHAIR HOLLAND heard no objections so Conceptual Amendment 1 to Amendment 10 was adopted.

He reminded members that legislative legal is authorized to make conforming changes.

10:37:30 AM

SENATOR MYERS agreed with Senator Kiehl theoretically, that formulas should not be placed in the Alaska Constitution in order to retain flexibility for changing circumstances. However, the state is at a unique point in its history. He offered his

view that the voters need to know what formula the courts will enforce before passing a constitutional amendment. Thus, the formula needs to be as explicit as possible in order to gain voter trust.

10:39:13 AM

SENATOR HUGHES stated that the legislature must pass a constitutional amendment. Senator Shower spoke about the need for changes to be approved by voters or providing some other safeguard. She highlighted that the conditional language in the bill and the constitutional amendment needs to match. She said she did not feel comfortable making changes "on the fly." She suggested that the committee could pass Amendment 10, as amended, with the understanding that it would need to be adjusted at some point. She solicited Senator Kiehl's opinion.

10:40:25 AM

SENATOR KIEHL suggested that the conditional clause could be less specific. He said he would be amenable to use language such as "ensures" or "guarantees" rather than "half of the amount of the draw" on page 6, line 7. He stated that it did not need to be as specific as his earlier suggestion that it should "not be subject to the dedicated funds clause" or Senator Shower's suggestion that it require "a vote of the people." He expressed his willingness to work on the language. He acknowledged that the constitutional amendment language is critical. However, that task is not before the committee today. Instead, today's task is to decide how tightly to connect things together. The goal should be to ensure that the legislative package can pass the legislature. However, if members attempt to constrain the legislative package, it will be problematic.

10:41:54 AM

SENATOR HUGHES asked Senator Kiehl whether he was comfortable fixing it on the floor or if he would prefer to wait to see the final form of the constitutional amendment and then amend SB 53.

SENATOR KIEHL deferred to the sponsor of Amendment 10.

10:42:30 AM

SENATOR MYERS offered his belief that SJR 6 should stay in the form that was passed by the Senate Judiciary Standing Committee. Otherwise, it would not likely gain the trust of the voters, he said. He said Mr. King reminded him that the Alaska Constitution [Art. IX, Sec. 15] already designates where the income from the permanent fund shall be deposited. Wielechowski v. State effectively indicated that the Alaska Constitution allows the

legislature to override statutory language but he is hesitant to go that route, he said. He reiterated that he agrees with drafting standards for the constitution that provide a more general framework and less rigidity. However, in this case, he believes that the rigidity is necessary.

[10:43:58 AM](#)

SENATOR KIEHL said he would not hold up the bill by objecting to Amendment 10, but he acknowledged that additional work needs to be done.

[10:44:31 AM](#)

CHAIR HOLLAND removed his objection.

CHAIR HOLLAND heard no further objection so Amendment 10 was adopted.

[10:44:49 AM](#)

CHAIR HOLLAND moved Amendment 11, work order 32-GS1693\A.15.

32-GS1693\A.15

Nauman

8/27/15

AMENDMENT 11

OFFERED IN THE SENATE

BY SENATOR HOLLAND

TO: SB 53

Page 1, following line 6:

Insert a new bill section to read:

"* Section 1. The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. It is the intent of the legislature to

(1) implement the recommendations of the 2021 Comprehensive Fiscal Plan Working Group;

(2) harmonize the calculation under AS 37.13.140(a) of net income available for distribution and net income available for appropriation under AS 37.13.140(b);

(3) temporarily change the mechanism used to draw money from the earnings reserve account to leverage the unprecedented earnings currently available in the account, so that the legislature has adequate time to debate, analyze, and implement the

revenue measures and cost reductions required for the long-term financial stability of the state;

(4) reverse the changes made by this Act if the recommendations of the 2021 Comprehensive Fiscal Plan Working Group are not adopted and implemented in their entirety."

Page 1, line 7:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

Page 5, line 15:

Delete "Section 9"

Insert "Section 10"

Page 5, line 16:

Delete "sec. 12"

Insert "sec. 13"

[10:45:09 AM](#)

MR. KING explained that Amendment 11 would add intent language, beginning on lines 5-16, which he read:

LEGISLATIVE INTENT. It is the intent of the legislature to

(1) implement the recommendations of the 2021 Comprehensive Fiscal Plan Working Group;

(2) harmonize the calculation under AS 37.13.140(a) of net income available for distribution and net income available for appropriation under AS 37.13.140(b);

(3) temporarily change the mechanism used to draw money from the earnings reserve account to leverage the unprecedented earnings currently available in the account, so that the legislature has adequate time to debate, analyze, and implement the revenue measures and cost reductions required for the long-term financial stability of the state;

(4) reverse the changes made by this Act if the recommendations of the 2021 Comprehensive Fiscal Plan Working Group are not adopted and implemented in their entirety."

[10:46:31 AM](#)

CHAIR HOLLAND heard no further objection so Amendment 11 was adopted.

10:46:45 AM

SENATOR HUGHES moved to report SB 53, work order 32-GS1693\A, as amended, from committee with individual recommendations and attached fiscal note(s).

10:47:18 AM

SENATOR KIEHL thanked the committee for starting the process to move these issues forward during this special session. He said he did not agree with everything in the bill, but he appreciated the approach taken by members. He said there is more work to come.

CHAIR HOLLAND stated that hearing no objection, CSSB 53(JUD) was reported from the Senate Judiciary Standing Committee.

10:48:13 AM

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 10:48 a.m.